

In the Matter of WESTINGHOUSE ELECTRIC AND MANUFACTURING COMPANY, UNITED STATES NAVAL ORDNANCE PLANT, and INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 327, A. F. L.

Case No. 7-R-1748.—Decided July 12, 1944

Beaumont, Smith, and Harris, by *Mr. Albert E. Meder*, of Detroit, Mich., for the Company.

Mr. J. E. Crow, of Detroit, Mich., for the AFL.

Sugar and Tucker, by *Mr. Jack N. Tucker*, of Detroit, Mich., for the UAW-CIO.

Mr. Max M. Goldman, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by International Union of Operating Engineers, Local 327, A. F. L., herein called the AFL, alleging that a question affecting commerce had arisen concerning the representation of employees of Westinghouse Electric and Manufacturing Company, United States Naval Ordnance Plant, Centerline, Michigan, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Robert J. Wiener, Trial Examiner. Said hearing was held at Detroit, Michigan, on May 25, 1944. At the hearing, the Trial Examiner granted a motion to intervene made by International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, UAW-CIO, herein called the UAW-CIO. The Company, the AFL, and the UAW-CIO appeared and participated. All parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The UAW-CIO moved to dismiss the petition, contending that the unit sought is inappropriate. The Trial Examiner referred the motion to the Board. For reasons set forth hereinafter, the motion is hereby denied. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded an opportunity to file briefs with the Board.

Upon the entire record in the case, the Board makes the following:

FINDING OF FACT

I. THE BUSINESS OF THE COMPANY

Westinghouse Electric and Manufacturing Company, a Pennsylvania corporation, maintains its principal office and place of business at Pittsburgh, Pennsylvania. It is engaged in the manufacture, sale, and distribution of a wide variety of electric and machinery equipment, and operates several plants in various States of the United States. The only plant involved in this proceeding is the United States Naval Ordnance Plant at Centerline, Michigan, herein called the Centerline plant, an instrumentality of the United States which is operated by the Company.

At the Centerline plant the Company is engaged in the manufacture and assembly of machined parts and electrical equipment for the United States Navy. The annual value of these finished products exceeds \$1,000,000. Approximately 50 percent of the raw materials used at this plant is obtained from sources outside the State of Michigan, and nearly all the products manufactured or produced at the plant are shipped to points outside the State of Michigan.

The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

International Union of Operating Engineers, Local 327, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, UAW-CIO, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the AFL as the exclusive bargaining representative of the operating engineers at the Centerline plant until it has been certified by the Board in an appropriate unit.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the AFL represents a substantial number of employees in the unit alleged to be appropriate.¹

¹The Regional Director reported that the AFL submitted seven authorization cards which bore apparently genuine original signatures; that the names of all persons appearing on the cards were listed on the Company's pay roll of April 28, 1944, which contained the

We find that a question affecting commerce has arisen concerning the representation of employees of the Company, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

IV. THE APPROPRIATE UNIT; THE DETERMINATION OF REPRESENTATIVES

The AFL seeks a unit of the Company's operating engineers at its Centerline plant, including the chief engineer. The UAW-CIO asserts that the unit sought is inappropriate, and that the operating engineers should either be in a unit composed of all powerhouse employees, or in one composed of all production and maintenance employees. The Company takes no position as to the scope or composition of the unit requested by the AFL.

In the maintenance division of its Centerline plant, the Company employs, among other workers, a chief engineer and eight operating engineers. The principal function of the operating engineers is to maintain and operate the air compressor and generators in the powerhouse and the air-conditioning equipment in other buildings. They also have the duty of seeing that the boiler operators maintain steam and air pressure in the powerhouse.

Local 154 of the UAW-CIO, by virtue of a collective bargaining contract with the Company, represents production and maintenance workers in the Centerline plant, including the boiler operators at the powerhouse. It does not, however, represent the operating engineers. As indicated above, the UAW-CIO's position is that the operating engineers should form part of a more comprehensive unit.

The operating engineers, however, may properly function as a separate bargaining unit since they have special skills; and constitute a homogeneous group. On the other hand, inasmuch as their work is integrated with that of other maintenance employees, and their interests are apparently similar to those of the average production or maintenance worker, the operating engineers may also be merged with the production and maintenance employees now represented by the UAW-CIO's local. Under these circumstances, we shall defer our determination of the appropriate unit. Such determination will depend, in part, upon the results of the election which we hereinafter direct.

There remains for consideration the supervisory status of the chief engineer. As noted above, the Company takes no position and the AFL requests his inclusion. The UAW-CIO contends that if, in fact, the chief engineer is a supervisory employee, he should be excluded.

names of eight employees in the alleged appropriate unit; and that the cards were all undated. The Regional Director also reported that the UAW-CIO submitted two dues receipts; that the names of the persons appearing on the receipts were listed on the Company's above pay roll; and that one was dated through March, and the other through June 1944.

The chief engineer is paid at a rate higher than that which the operating engineers receive. He is the only employee who closely supervises the powerhouse, and is charged with making detailed daily reports to higher officials concerning its operation. We are persuaded from the record that this employee has the power effectively to recommend changes in status of the operating engineers. In view of the foregoing facts, we shall exclude the chief engineer.

We shall direct that the question concerning representation which has arisen be resolved by an election by secret ballot among the operating engineers of the Company's Centerline plant, excluding the chief engineer, and all other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, who were employed during the pay-roll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction. If these employees select the UAW-CIO as their bargaining representative, they will have thereby indicated a desire to be included in the more comprehensive unit of production and maintenance employees currently represented by that labor organization's local 154. However, should they select the AFL as their bargaining representative, they will have thereby indicated a desire to be established as a separate bargaining unit.

DIRECTION OF ELECTION

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of the National Labor Relations Act, and pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 3, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Westinghouse Electric and Manufacturing Company, United States Naval Ordnance Plant, Centerline, Michigan, an election by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of this Direction, under the direction and supervision of the Regional Director for the Seventh Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Sections 10 and 11, of said Rules and Regulations among the operating engineers in the Company's Centerline plant, excluding the chief engineer, and all other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, who were employed during the pay-roll period immediately preceding the date of this Direction, including employees who

did not work during said pay-roll period because they were ill or on vacation or temporarily laid off, and including employees in the armed forces of the United States who present themselves in person at the polls, but excluding those employees who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the election, to determine whether they desire to be represented by International Union of Operating Engineers, Local 327, affiliated with the American Federation of Labor, or by International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, UAW-CIO, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining, or by neither.